

7791-0071-25X CONT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :

JOHN A. GIULIANI, ET AL. : ATTN: APPLICATION DIVISION

SERIAL NO: NEW PCT APPLICATION :
(Based on PCT NUMBER)

FILED: HEREWITH :

FOR: METHOD AND APPARATUS FOR :
GENERATING PURCHASE
INCENTIVES BASED ON PRICE
DIFFERENTIALS



Received

JUN 15 1999

**Director's Office
Group 2700**

PETITION TO MAKE SPECIAL (MPEP 708.02)

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

I. Basis For the Petition

Pursuant to MPEP 708.02, Section IIIV, Revision July 1998, page 700-71-72, the applicant petitions for a special status for this application.

II. Requirement for Granting the Petition and Showing that the Requirements For Granting the Petition Have Been Met

The following subsection identify the requirements for the petition to be granted and show that those requirements are met.

A. Submit Petition and Fee - MPEP 708.02, Section IIIV.A

This petition is accompanied by the 37 CFR 1.17(i) petition fee.

B. Agree to an Election Without Traverse - MPEP 708.02, Section IIIV.B

The applicant submits that all claims are directed to the same patentable invention because the method and computer product claims are analogs of the apparatus claims.

However, the applicant agrees that, if the examiner restricts between all of the method claims and any of the other claims, to elect the group containing all of the method claims, without traverse.

C. State that a Pre-examination Search Was Made -MPEP 708.02, Section IIIV.C

A preexamination search was made. The pre-examination search consists of (1) the foreign search report in the parent application and (2) the search conducted by the examiner in the parent application. A copy of the PCT search report in the parent application is attached. A copy of the PTO-892 in the parent application is attached.

D. Submit Copies of Most Relevant References - MPEP 708.02, Section IIIV.D

The applicant is submitting a PTO-1492 listing each of the references in the two searches reports mentioned above.

E. Detailed discussion Pointing Out how the Claimed Subject Matter is Patentable Over the References - MPEP 708.02, Section IIIV.E

The present claims are patentable for the reasons presented by the examiner in the notice of allowance in the parent application, which read:

The prior art taken alone or in combination fails to teach or suggest means for selecting a set of incentive terms for the storage means, based on whether the purchased triggering item is the promoted item or the competitive item, and further based on prices of the promoted item and the competitive item, wherein the incentive terms are tailored to a consumer's purchasing behavior and the price of the promoted item relative to the competitive item as recited in independent claim 1. [Notice of Allowability page 2 lines 12-17 mailed November 23, 1998]

All claims in this application are commensurate with the scope of those reasons, and the prior art taken singly or in any combination that would have been legally obvious would not suggest that subject matter. More particularly, the prior art does not disclose or suggest basing an incentive selected from a storage means upon the difference in price between a purchased item and another item.

The DeLapa et al. patent 5,822,735 teaches encoding a coupon with both the consumer and the coupon identifications.

The Golden et al. patent 5,761,648 teaches generating an online printable certificate that includes both transaction data and identification data.

The Deaton patent 5,687,322 teaches a point of sale system that can be used to generate incentives based upon a customer's prior purchasing history.

The Deaton et al. patent 5,649,114 teaches a point of sale system and a method for generating an incentive based upon a customer's prior purchasing history.

The Deaton et al. patent 5,644,723 teaches a point of sale system and a method for generating an incentive based on a customer's prior purchasing history.

The Deaton et al. patent 5,621,812 teaches a point of sale system and a method of generating a coupon based upon a customer's prior purchasing history.

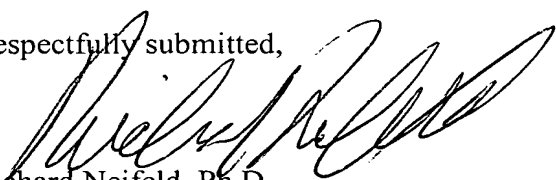
The Off et al. patents 5,612,868 and 5,173,851 teach a point of sale system including a method for generating a coupon for a second product in response to the purchase of a first product.

The Schultz et al. patent 5,056,019 teaches a system for generating a pamphlet containing incentives in mailing those incentives to customers in response to the customer's accumulated purchases.

III. Conclusion

The petition should be granted.

Respectfully submitted,



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